

1887-048 Chancery Causes: John D. S. Russell & wife vs. E. S. Bishop &  
Lee Co.

Pridemore, Jesse, Thompson

CA-Estate Dispute  
T-Property

Will: 1862 : Elijah Bishop : Lee County



To the Hon. John A. Kelly Judge of  
the Circuit Court of Lee County  
Virginia:

Your Complainants  
John D. S. Russell and Rebecca S.  
Russell his wife, respectfully rep-  
resent, that your female Complain-  
ant, was before her marriage

Rebecca S. Bishop a daughter of  
the late Elijah Bishop now deceased,

The said Elijah Bishop before  
his death, made and published his  
last will and Testament, which  
was duly admitted to record on the 16  
day of June 1862. A copy of this  
will so recorded is herewith filed marked  
"A." and is prayed to be considered here-  
with as part hereof. By an in-  
spection of this paper, it will be  
seen that among other things that said  
testator gave and bequeath unto Elijah  
S. Bishop and Isaac S. Bishop, one half  
of said testators land, for which the  
legates thereof were to decently support  
and maintain their mother during her  
life; also Nancy H. Bishop and your  
female Complainant so long as they  
remained single: He also gave them the



the said Elijah D. & Isaac T. all his the  
said Testator's personal property that  
was necessary to such support and  
maintenance - He then gave them the use  
of the other half of his said land or  
sufficient personal property and  
farming utensils to pay off all the  
Testator's said indebtedness - The res-  
idue of his property he then directs  
to be equally divided between Mary  
D. Jesse or her heirs, Elisha Bishop,  
J. P. Bishop, Nancy W. Bishop, Levina  
Bishop, Lucy Thompson and your  
female Complainant; He then makes  
a conditional bequest to Robert P.  
Bishop - He then makes an additional  
bequest to Nancy W. Bishop and to your  
female Complainant he bequeaths a  
good horse and saddle a good cow and  
bed. He then appoints the said Elijah  
D. and Isaac T. Bishop as executors  
thereof - Isaac T. qualifies and  
gives Bonds with James H. Muncy  
E. T. Devault and Francis Bishop as  
his securities - James H. Muncy went into  
Bankruptcy, and has removed from  
the County, E. T. Devault is dead  
and his estate worthless as is also



Maui Bishop. A few years ago  
Isaac T. Bishop removed from this  
Commonwealth, never having settled  
his executorial account - and Elijah D.  
Bishop qualified as administrator de  
bonis non of said estate, and has  
never settled his account.

Both Isaac T. Bishop and Elijah D.  
Bishop accepted the terms and pro-  
visions of said will, took and held  
the one half of said land, and used  
the other half so long as they pleased  
and until they announced they had  
paid all the said testator's debts.

This they then and now as your  
female Complainant is advised  
they had the legal right to do, and having  
taken the benefit of said will they  
were bound to perform the duties  
assigned them - one of which was  
to pay all debts of which the  
Legacy to your female Complainant  
was one. So far as she knows all  
other things have been settled and  
paid. She has not received from  
them, the horse, saddle, cow or bed  
But the mother has given her a  
cheap saddle, but it did not



said executor. Your Complainants  
~~are~~ advised that said Elijah I. &  
Isaac T. Bishop were and trustees  
for the benefit of your female com-  
plainant, and as such had the  
power and it was their duty to  
pay said homestead out of the per-  
sonal estate, or if not sufficient  
to then sell half the land not be-  
queathed to them until done. Neither  
of them have made any settlement  
of their accounts or paid said Legacy.  
The object of this bill therefore is  
to compel them to account to your  
female complainant for said  
bequest and to pay the same over  
to her. She alleges that a large  
amount of personal property  
went into their hands, which  
was for equal distribution among  
all the said heirs after the payment  
of said debts. Nancy W. Bishop has  
since intermarried with one David  
Orr. Lavinia has intermarried with  
A. J. Livingston, but your Complain-  
ants ask no relief from them nor  
are they in any way interested in  
this cause, but if so directed they



will make them parties hereto.

The object of this bill is to compel the said Isaac T. Bishop and Elijah S. Bishop to settle and adjust their accounts, of said estate and show what personal property went into their hands, what debts they have paid, how long they rented or used the one half of the land not yet so devised to them, and what amt is due from said estate in their hands for the female complainant, And to compel them to pay to your female complainant, the here, said due and to due her as aforesaid. As before stated some 30 or 40 years ago your complainant were married and thereupon as had been the course with the others she demanded her specific legacy from Elijah S. Bishop Isaac T. having then removed from the country. But the same was not paid.

The premises considered ~~apart~~ ~~complainant's~~ pray that Elijah S. Bishop and Isaac T. Bishop be made parties defendants to this bill and be compelled.



to settle their accounts as aforesaid &  
pay the distribution there due your  
Complacant as aforesaid. And to  
specially pay said specific legacy  
to your female Complacant - And  
for all other further and General  
relief may require.

A. S. Prileman  
D.D.



66.16 To Aug. 1886

\$ .50

Pr. 5.00

At 15.00

66 75-

\$27.41

JP  
J.D. Russell wife

vs Bill Chy

E. J. Bishop et al

1884 Sept. 25<sup>th</sup> Bill filed

" Oct. 1<sup>st</sup> Ex. D. W. vs

House Dpts & O.P.

Apr. O. P. vs D. W. vs

Confirmed & cause set  
for hearing.

1885 Mr. Cantuene d

Aug & Nov Cont'd.

1886. Mr. Dearee remand.

ing to Rules.

1887 Aug 7



To the Hon John A Kelly Judge of the Circuit Court  
of Lee county Virginia.

The demurrer and separate answer of  
E. S. Bishop to a bill filed in this honorable Court  
against him & Isaac T Bishop by John D S  
Russell & Rebecca T Russell his wife.

This respondent says that the bill of the Com-  
plainants is not sufficient in law and of this  
he prays the judgment of the Court.

But should any further answer be necessary  
answering he says, that it is true that the  
female Complainant was formerly Rebecca T  
Bishop and is a daughter of the late Elijah  
Bishop deceased, and she is a sister of this re-  
spondent and the said Isaac T Bishop. It is  
also true that the said Elijah Bishop before  
his death made and published his last will  
and testament which was duly admitted to  
record, and by which will he devised to this re-  
spondent & the said Isaac T Bishop one half of  
his land for which they were to decently support  
their mother so long as she might live and to  
decently support Nancy W Bishop & Rebecca T  
Bishop so long as they might remain single.  
and said testator also bequeathed to the said  
any of his personal property necessary for said support and  
Isaac T Bishop & this respondent, the benefit of  
the other half of his land and all personal property  
necessary for the cultivation thereof, until they  
they said Isaac T & Elijah S. should pay all his just



debts, and after the said support of the said Mother & two sisters and the payment of all of testator's just debts, the residue of his personal property and one half of his said land was to be equally divided between certain of his heirs mentioned in said will. Then comes a clause in reference to Robert C Bishop, after which is a bequest to Nancy W Bishop, and then one to Rebecca S Bishop by which she was to have a good horse and saddle and a good cow & bed. And then the testator appoints the said Isaac S Bishop & this respondent Executors of his said last will & testament.

This respondent will now state that his father the said Elijah Bishop, departed this life during the late war, and at the time of his decease this respondent was in Eastern Virginia in the Confederate army, and he remained in the said service until the close of said war, and this respondent never qualified as Executor of said will nor took upon himself the duties of such executor, but he supposes it is true that his brother Isaac S Bishop did, though plaintiffs exhibit does not show the fact. When this respondent returned from the army he and the said Isaac S. continued to carry out the provisions of said will by supporting their mother & sisters Nancy W. & Rebecca S. until the sisters were married, and until said Isaac S. removed from



this country to the State of Texas where he now resides, and this respondent is still taking care of and supporting his aged mother; and this respondent avers, that under said will, after the payment of all testators debts and after the support of the mother, who is still living, and <sup>with respondent</sup> the support of the two sisters as long as they were single, (and the female complainant did not marry until on the 16<sup>th</sup> day of Nov. 1881, and lived during all this time with respondent, & generally in very delicate health.) there is in fact not one cent due said female complainant more than she has already received. And your respondent states that in his opinion ~~his sister~~ it is against the wish of his sister that this stale claim is set up, and that it never would have been done except for the inordinate greed of her husband, the male complainant.

This respondent <sup>& said Jesse P.</sup> used and occupied the one half of the land <sup>after his return in 1865</sup> until on the <sup>1st</sup> day of July 1866, when it was partitioned among the heirs to whom it was devised, the debts having <sup>all</sup> in fact been paid at that time, but this respondent & the said Jesse P. agreed to said partition not withstanding the debts had not all been paid.

Now this respondent avers that the request of a horse <sup>Saddle</sup> & led to the female complainant was to be paid by the executors out of the estate, and if she has slept upon her rights until this late



day and permitted the executor to remove his effects from this Commonwealth, which he did about the year 1877. In Feb. she has no remedy at least against this respondent; and this respondent here now invokes the protection of the Statute of limitations against this state, and as he believes, ~~unreasonable~~ <sup>unreasonable</sup> if not unjust ~~and~~, and claims that the Complainant is barred from any relief in the premises. Your respondent will now further state that on his return from the voyage in 1865, there was but little, if any, of the personal property on the premises left by the testator, and he is informed and believes and accordingly so alleges that the personal property left by his father together with the use of one half of the land for the period used by his brother Aaron L. was entirely insufficient to pay off and discharge the debts of the testator.

It is true that this respondent on the 19<sup>th</sup> day of December 1882, qualified as Administrator of the estate of the said Elijah Bishop, but this appointment was only for the purpose of collecting a small debt in which he realized about \$20.00 and ~~most~~ <sup>some</sup> of the heirs have ~~agreed~~ <sup>signified a willingness</sup> for him to keep that small sum in his own hands & use it as he is still supporting his mother, and this he is advised he has a perfect right to do and to hold even a great deal more if it was



in his hands for the same purpose, for the  
~~support and caring for his aged mother, that~~  
~~a pleasure with him is in fact a burden that~~  
~~all the heirs should bear and for several years~~  
~~it has been.~~ And now having fully answered  
the Complainant's bill this respondent prays  
hence to be dismissed with his reasonable  
costs in this behalf expended, and he will  
ever pray.

Richmond & Orr for  
Respondent

Sworn to before me in due form  
by E. S. Bishop March 28 1883-

J. A. Stryatt C. C.



C. S. Bishop

2d & 3d Summer

John D. Russell & wife

Filed in open  
Court by Leavelle &  
March 28/885-

J. A. Hyatt & Co



John D. S. Russell & wife  
against  
E. A. Bishop et al. } In ch.

as the  
motion of the plffs in this case  
leave is granted them to amend their  
bill, if so advised, as the case is  
remanded to rules for said amend-  
ment -



J. D. S. Russell wife  
vs Decree

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E. S. Bishop et al

March 7. 1886

Entered Mr. T. 1886  
on page 674.

J. H. Hutton & Co

Enter this  
March 30. 1886



John D. S. Russell vs. Poff }  
vs. }  
E. S. Bishop & Co. }  
Defendants

This day, A. L. Bidmore personally  
appeared before me, and made  
oath in due form, "that he verily  
believed and was informed, that the  
defendant Isaac S. Bishop was  
a Non resident of the State of  
Virginia known under my  
hand this 25<sup>th</sup> Sept 1881

J. A. Hyatt C.



J. D. Russell wife  
No 3 Affidavit  
E. S. Bishop et al



I now all men by these presents that I Elijah  
Bishop, of the county of Lee and State of  
Virginia being in full health and of sound  
mind and memory do make and publish this my  
last will and testament, hereby revoking  
all former wills by me, at any time heretofore  
made and as to my worldly estate and all  
the property real personal or mixed of which I  
shall still be seized and possessed at the time I  
shall be entitled at the time of my decease  
I devise bequeath and dispose thereof in  
the manner following to wit: First my  
will is that Elijah S. Bishop and Isaac S.  
Bishop shall have one half of my land,  
for which the above named Elijah S. Bishop  
and Isaac S. Bishop are to decently support  
their Mother so long as she may live also  
to decently support Nancy M. Bishop and  
Rebecca S. Bishop so long as they remain sin-  
gle, and they Elijah S. Bishop and Isaac  
S. Bishop are to have and to hold any  
of my personal property that will be necessary  
for their support and the support of their  
Mother and the two girls Rebecca and Nancy  
Also bequeath unto Elijah S. Bishop and  
Isaac S. Bishop the benefit of the other half of  
my land and all personal property necessary  
for the cultivation thereof, until they



Elijah S. Bishop and Isaac S. Bishop have  
off all my last debts, after which the  
one half of the land and all my personal  
property, being what is necessary for raising  
a support for the family is to be equally  
divided between Mary S. Jesse and her  
Elisha Bishop, S. P. Bishop, Isaac W.  
Bishop, Rebecca Bishop, Nancy Thompson, Re-  
becca S. Bishop and my Will is that if  
Robert C. Bishop move to the Confederate States,  
that that the above named heirs pay to  
him money and make him an equal share  
with them, Mary S. Jesse and her Elisha Bishop  
S. P. Bishop, Nancy W. Bishop, Rebecca Bishop,  
Nancy Thompson, and Rebecca S. Bishop other-  
wise the Robert C. Bishop is to have nothing  
Also my will is that Nancy S. Bishop is to have  
a good horse and Rebecca S. Bishop is to have  
a good horse and saddle also Nancy and  
Rebecca is to have a good cow or piece and  
a bed apiece, and lastly I do nominate and  
appoint my said sons Elijah S. Bishop and  
Isaac S. Bishop to be the executors of this  
my last will and testament In testimony  
whereof I the said Elijah Bishop have to  
this my last will and testament subscribed,  
on this sheet, I have subscribed my name



And affixed my seal, this the twenty ninth  
day of March in the year of our Lord, one  
Thousand Eight hundred and fifty two:  
Signed sealed published and declared  
by the said Elijah Bishop, Elijah Bishop decd.  
and for his last will and  
testament in the presence of us  
who at his request and in  
his presence of each other have  
subscribed our names as witnesses  
thereto. Lifscorn Parrott Jr.  
James P. Muncy.

Virginia

At a court begun and held for Lee County at the  
Court house thereof, on Monday the 16 day of June  
1852.  
The last will and testament of Elijah Bishop  
deceased was produced in Court by Isaac  
Bishop one of the executors named there  
in, and was proved by the oaths of  
Lifscorn Parrott Jr. and James P. Muncy  
the subscribing witnesses thereto, and ad-  
mitted to record.

Teste Henry H. Morgan C.

Attest

Teste John R. Gibson clerk



Elijah Bishop  
3 Copy of Last  
Will & Testament

Recorded in Will  
Book No 3. P. 43  
J. B. Gibson Clk

"A"

Fee for Copy 75¢



# The Commonwealth of Virginia,

To the Sheriff of Lee County--Greeting:

WE COMMAND YOU to summon

*Isaac T. Bishop and*  
*E. S. Bishop*

to appear at the Clerk's office of the Circuit Court of Lee County, at the Court House, on the first Monday in  
*October* next, being Rule Day, to answer a Bill in Chancery exhibited in our Court against  
*them*, by *John O. S. Russell and Rebecca*  
*T. Russell his wife*

And have then and there this Writ. Witness, J. A. G. HYATT, Clerk of our said Court, at the Court House,  
this *25<sup>th</sup>* day of *September*, 1884, in the 109 year of the Commonwealth.

*J. A. G. Hyatt*, Clerk.

A Copy---Teste:



D

John D. S. Russell & Co  
203 Spain Way  
C. S. Bishop et al  

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To October Rules 1884

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Executed by delin  
ring an office  
of this Spa to C. S.  
Bishop, Oct 4  
1884. J. H. Ewing & Co  
for R. D. Flannery & Co



# Publisher's Certificate.

JONESVILLE, VA., Oct. 3<sup>rd</sup>, 1884

I, A. M. Gains, Publisher of the LEE COUNTY SUN,  
a weekly newspaper published at Jonesville, Lee County, Virginia, do certify that the annexed  
Chancery Order was published four successive weeks in said newspaper, publication ending  
Oct. 3<sup>rd</sup>, 1884.

A. M. Gains, Publisher.

VIRGINIA—In the Clerk's office of the  
Circuit Court of Lee County, in vacation,  
on Friday the 20th day of September, 1884.

## IN CHANCERY.

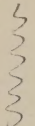
John D. S. Russell and wife, Plaintiffs, vs.  
E. S. Bishop, et al., Defendants.

The object of this suit is to compel the defendants to settle their executorial and administration accounts of the estate of Elijah Bishop, deceased, and duly account for all sums which came into their hands as such executors and administrators, and that they account to the female plaintiff for the specific legacy, and such sums as may be found due her from said estate; and it appearing from an affidavit filed in this cause that the defendant, Isaac T. Bishop, is a non-resident of the State of Virginia: It is therefore ordered that he appear here within one month after due publication of this order and do what may be necessary to protect his interest in this suit.

A Copy—Teste: J. A. G. HYATT, C. C.  
A. L. Pridemore, P. Q.

*Pub Fee \$ 5.00*



J. D. S. Russell King  
vs  Car. of O.D.

E. S. Bishop et al

Printers fee \$5.00